

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, JULY 22, 19 75

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

The Common Council of the City of Fort Wayne met in the Council Chambers
Tuesday evening July 22 A.D., 19 75, in Regular
Session. President James S. Stier in the chair, and
Charles W. Westerman Clerk, at the desk, present the following
members viz:
Burns ✓, Hinga ✓, Kraus ✓
Moses ✓, Nuckols ✓, Donald Schmidt ✓
Vivian Schmidt ✓, Stier ✓, Talarico ✓
Absent _____
Councilmen _____,

The invocation was given by Melvin R. Phillips - Executive Director of the
Associated Churches of Fort Wayne and Allen County

Received report from the City Controller for the month of _____,
19 _____. Motion made and carried that report be made a matter of record and
placed on file.

The minutes of the last regular _____, 19 _____,
special June 10 & June 24, 19 75,
Session having been delivered to the Council, were, on motion, approved and
published.



THE CITY OF FORT WAYNE

office of the mayor

July 9, 1975

To the Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

Today, July 9, 1975, I have approved the following ordinances passed by the Common Council at the regular meeting of July 8, 1975.

(Bill No. A-75-06-19)
APPROPRIATION ORDINANCE NO. A-25-75

AN ORDINANCE transferring funds in the Sewer Relief Fund

(Bill No. A-75-06-20)
APPROPRIATION ORDINANCE NO. A-26-75

AN ORDINANCE approving the transfer of funds in the 1975 Budget of the Board of Works

(Bill No. A-75-06-21)
APPROPRIATION ORDINANCE NO. A-27-75

AN ORDINANCE transferring funds from Rental-Seyfert Building to various line accounts in 1975 Budget of the Board of Works

(Bill No. R-75-07-12)
RESOLUTION NO. R-48-75

A RESOLUTION authorizing the issuance and sale of \$500,000 Economic Development Revenue Bonds (Hoosier Terminal Company Project) of the City of Fort Wayne, Indiana, for the purpose of acquiring real estate, machinery, equipment and related property comprising economic development facilities for use by Hoosier Terminal Company, authorizing the execution of the necessary instruments; Providing for the pledge of revenues for the payment of said Bonds; Authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues; and Authorizing the sale of said bonds

MADE A MATTER OF RECORD
DATE 7/15 1975 CHARLES W. WESTERMAN, CITY CLERK

AN EQUAL OPPORTUNITY EMPLOYER

(Bill No. G-75-06-08)
GENERAL ORDINANCE NO. G-20-75

AN ORDINANCE amending certain sections of Chapter 31 of the 1946 Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. 2726, adopted December 22, 1953

(Bill No. S-75-06-22)
SPECIAL ORDINANCE NO. S-122-75

AN ORDINANCE approving a contract with SPEARS-DEHNER, INC. for Resolution 5682-1975, Chestnut-Reynolds NPI Project

(Bill No. S-75-06-23)
SPECIAL ORDINANCE NO. S-123-75

AN ORDINANCE approving a contract with DAILEY ASPHALT PRODUCTS for Resolution 5688-1975 Resurfacing Program

(Bill No. S-75-06-24)
SPECIAL ORDINANCE NO. S-124-75

AN ORDINANCE approving a contract with BROOKS CONSTRUCTION COMPANY for Resolution 5688-1975 Resurfacing Program

(Bill No. S-75-06-25)
SPECIAL ORDINANCE NO. S-125-75

AN ORDINANCE approving a contract with GLADIEUX REFINERY, INC. for oil for Street Department

(Bill No. S-75-06-26)
SPECIAL ORDINANCE NO. S-126-75

AN ORDINANCE approving a contract with DUTHLER FORD, INC. for proposed purchase of pick-up truck

(Bill No. S-75-06-28)
SPECIAL ORDINANCE NO. S-127-75

AN ORDINANCE approving contracts with WAYNE ASPHALT & CONSTRUCTION for Resolution 5688-1975 Resurfacing Program

(Bill No. S-75-06-29)
SPECIAL ORDINANCE NO. S-128-75

AN ORDINANCE approving a contract with REITH-RILEY CONSTRUCTION COMPANY on Resolution 5688-1975 Resurfacing Program

(Bill No. S-75-06-30)
SPECIAL ORDINANCE NO. S-127-75

AN ORDINANCE approving Change Order No. 1 in connection with Division I, WPC Plant Expansion

(Bill No. S-75-06-31)
SPECIAL ORDINANCE NO. S-130-75

AN ORDINANCE approving a contract with INDUSTRIAL TRACTOR AND EQUIPMENT COMPANY for proposed purchase of a tractor

(Bill No. S-75-06-32)
SPECIAL ORDINANCE NO. S-131-75

AN ORDINANCE approving a contract with ALL PHASE ELECTRIC for wire for street lighting projects

(Bill No. S-75-06-33)
SPECIAL ORDINANCE NO. S-132-75

AN ORDINANCE approving a contract with DUTHLER FORD for proposed purchase of trucks for Water Maintenance and Service Department

(Bill No. S-75-06-34)
SPECIAL ORDINANCE NO. S-133-75

AN ORDINANCE approving Change Order No. 3 in connection with WPC Plant Expansion, Division II

(Bill No. S-75-06-35)
SPECIAL ORDINANCE NO. S-134-75

AN ORDINANCE approving a contract with WESTINGHOUSE ELECTRIC SUPPLY for proposed purchase of lighting fixtures for front of Fine Arts Building

(Bill No. S-75-06-36)
SPECIAL ORDINANCE NO. S-135-75

AN ORDINANCE approving contracts with GENERAL ELECTRIC COMPANY for purchase materials for street lighting projects

(Bill No. S-75-06-37)
SPECIAL ORDINANCE NO. S-136-75

AN ORDINANCE approving a contract with WESTINGHOUSE ELECTRIC SUPPLY COMPANY for proposed purchase of mercury lights

(Bill No. X-75-06-38)
ANNEXATION ORDINANCE NO. X-01-75

AN ORDINANCE repealing Annexation Ordinance No. X-65-04-05

Respectfully yours.


Ivan A. Lebamoff
Mayor



City of Fort Wayne
OFFICE OF THE CITY CLERK
ROOM 120, CITY-COUNTY BUILDING
ONE EAST MAIN ST., FORT WAYNE, INDIANA 46802

CHARLES W. WESTERMAN, CLERK
TELEPHONE 219-423-7183

July 22, 1975

IN THE ALLEN CIRCUIT COURT
RE: RESOLUTION NO. 15-75

To the Common Council
Fort Wayne, Indiana

Councilmen and Mrs Schmidt:

Pursuant to the above Resolution creating a Hospital Authority of the City of Fort Wayne, according to Indiana Code Section IC5-1-4-5, also Burns Indiana Statute animated Section 22-3319, I have received from The Honorable Hermann F. Busse, Judge of Allen Circuit Court of Allen County, Indiana, an order through the Circuit Court dated July 15, 1975, a fulfillment of Resolution 15-75 as requested. Said order indicates the following citizens of the City of Fort Wayne will occupy the appointments to the newly created Hospital Authority. Said appointments will include:

Howard Hirschy - 1 year term
Clifton E. McCormick - 2 year term
Rod M. Howard - 3 year term
James F. Dumas - 4 year term
Byron F. Novitsky - 4 year term

Therefore, I, the City Clerk of the City of Fort Wayne, begging relief of said responsibility of Resolution 15-75 wish to ask the respected Council of the City of Fort Wayne to please make this communication a matter of record, together with concurrence in the appointments after I, Charles W. Westerman, City Clerk of the City of Fort Wayne, will fulfill said order by administering oath to the above persons. Said persons shall subscribe to an oath that they shall honestly, faithfully, and impartially, perform their duties to the best

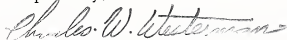
MADE A MATTER OF RECORD
DATE 7/22/75 CHARLES W. WESTERMAN, CITY CLERK

July 22, 1975

Page 2

of their ability, and shall meet within thirty (30) days after their appointment in the Jury Room of the Allen Circuit Court for the purpose of organization, and shall elect their officers as provided under said Act, and perform such acts as by law required.

Respectfully,

A handwritten signature in cursive script, reading "Charles W. Westerman". The signature is written in dark ink and is positioned above the printed name and title.

Charles W. Westerman
City Clerk

CWW/nb

STATE OF INDIANA)

...) SS:
COUNTY OF ALLEN)

IN THE ALLEN CIRCUIT COURT
In Re: No. 15-75

CHARLES WESTERMAN)
CITY CLERK)
1 MAIN STREET)
FORT WAYNE, INDIANA 46802)

ORDER

Pursuant to the authority vested in me as Judge of The Allen Circuit Court, as set out in Indiana Code Section IC5-1-4-5, also in Burns Indiana Statutes Annotated Section 22-3319, and in further compliance with Resolution No. 15-75 of the Common Council of The City of Fort Wayne, Indiana, I now appoint the following directors of the Hospital Authority of the City of Fort Wayne, Indiana who shall hold office for the following specified terms:

Howard Hirschy - 1 year term.
Clifton E. McCormich - 2 year term.
Rod M. Howard - 3 year term.
James F. Dumas - 4 year term.
Byron F. Novitsky - 4 year term.

Said directors shall subscribe to an oath that they shall honestly, faithfully and impartially perform their duties to the best of their ability, and shall meet within thirty (30) days after their appointment in the Jury Room of the Allen Circuit Court for the purpose of organization, and shall elect their officers as provided under said Act, and perform such acts as by law required.

Respectfully,

Hermann F. Busse

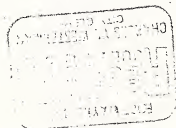
Hermann F. Busse, Judge
The Allen Circuit Court
Allen County, Indiana

dmc

Date:

7/15/75

THE ALLEN CIRCUIT COURT
THIRTY EIGHTH JUDICIAL CIRCUIT
HERMANN F. BUSSE, JUDGE
FORT WAYNE, INDIANA 46802



Mr. Charles Westerman
City Clerk
1 Main Street
Ft. Wayne, Indiana 46802



COMMUNITY DEVELOPMENT AND PLANNING

long range planning and zoning

July 7, 1975

COMMUNICATIONS FROM CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance Number 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinance is designated as:

Bill No. Z-75-03-15

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
7th day of July, 1975.

Charles N. Hall
Secretary

MADE A MATTER OF RECORD
DATE 7/23/75 CHARLES W. WESTERMAN, CITY CLERK

an equal opportunity employer





COMMUNITY DEVELOPMENT AND PLANNING

long range planning and zoning

July 7, 1975

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, Indiana 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a copy of a resolution pertaining to one (1) zoning ordinance amendment acted upon by the City Plan Commission at their regular meeting held May 27, 1975. In addition to the reasons outlined in the resolution, the following are additional remarks pertaining to the ordinance involved:

1. Bill No. Z-75-03-15
2. Intended Use: Household Appliance Store and Dry Cleaning Establishment.
3. Plan Commission Recommendation: DO PASS

This ordinance received a DO PASS recommendation for the following reason:

- a) There should be restrictions included which will minimize impact of this request on adjacent residential property, because in the "BLB" classification we would be allowing 76 uses, some high volume and not compatible with residential development.

If there are any questions with regard to this ordinance, please feel free to call on us.

Respectfully submitted,

COMMUNITY DEVELOPMENT AND PLANNING
Division of Long Range Planning
and Zoning

James Geraghty
Director

JG:pr
att.

cc: Mayor Ivan Lebanoff

an equal opportunity employer



RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on March 11, 1975, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-75-03-15; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,


WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on May 19, 1975;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held May 27, 1975.

Certified and signed this
7th day of July, 1975.



Charles N. Hall
Secretary



THE CITY OF FORT WAYNE

department of public safety

July 17, 1975

President of the Common Council
City of Fort Wayne, Indiana

Gentlemen:

Attached herewith is an authenticated copy of the Board of Public Safety Regulatory Resolution Numbers 29-75/E and 30-75/D.

For the purpose of enforcement, please make this communication and the attached Regulatory Resolution a matter of record and incorporate it into the minutes of the next Common Council Meeting.

Respectfully submitted,

Thomas Casaburo
by B.G.

Thomas J. Casaburo
Director of Public Safety

TJC:bg

MADE A MATTER OF RECORD
DATE 7/22/75 BY CHARLES W. WESTERMAN, CITY CLERK

RETURN CERTIFICATE

29-75/E & 30-75/D

(Regulatory Resolution No. _____/____)

I hereby certify that I did this _____ 18th _____ day of _____ July _____, 19 75 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within
29-75/E
Regulatory Resolution No. 30-75 / P of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Secretary of said Board, in accordance with the provisions of Section 20 (a) of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.

Richard Drake *ly B. G.*

EXECUTIVE SECRETARY

REGULATORY RESOLUTION NO. 29-75/E

(Adopted _____ July _____ 18 , 19 75)

WHEREAS, Section 20(a) (3), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No.G -55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to Stop Intersection

_____ ; and,

WHEREAS, the City Traffic : Engineer has, by written memorandum dated June 19 , 19 75, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 20 (a) (3) of Chapter 31 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G -55. adopted FEB. 14. 1961. to make experimental regulations to cover special condi-

tions, it is hereby ordered, effective July 18 ,

19 75 , and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. STOP INTERSECTION

- | | | |
|------------------|----------|-------------------|
| 1. Eastbrook Dr. | - Stop - | for Edgewood Ave. |
| 2. Adams St. | - Stop - | for Evans St. |
| 3. Werling Dr. | - Stop - | for Capitol Ave. |

REGULATORY RESOLUTION NO. 30-75 /D

(Adopted July 18, 19 75)

WHEREAS, Section 20 (a) (2), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. G-55, adopted FEB. 14, 1961. authorizes the Board of Public Safety to make regulations to carry out its delegated authority thereunder; and,

WHEREAS, Section 62 of said chapter as so amended delegates to this Board authority to designate
Preferential Intersections

_____ ; and,

WHEREAS, the City Traffic Engineer has, by written memorandum dated June 19, 19 75, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority delegated to this

Board by Section 62 of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55 adopted FEB. 14. 1961. it is hereby

ordered, effective July 18, 19 75, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. PREFERENTIAL INTERSECTION DELETE:

- ✓ 1. Edgewood Ave. - Preferential - at Eastbrook Dr.
- 2. Adams St. - Preferential - at Evans St.
- 3. Capitol Ave. - Preferential - at Werling Dr.

STATE OF INDIANA

INDIANA STATE HIGHWAY COMMISSION
100 North Senate Avenue
Indianapolis, Indiana 46204



INDIANAPOLIS

Room 1101, State Office Building
317-633-5816
July 14, 1975

City Clerk
City-County Building
Fort Wayne, Indiana 46802

Re: US 30
City of Fort Wayne
Allen County
Parking

Dear Sir:

Attached is a copy of a resolution restricting parking on US 30 in the City of Fort Wayne, Allen County, as approved by the Indiana State Highway Commission on July 10, 1975.

Very truly yours,

Clinton A. Venable
Chief, Division of Traffic

cc: Mayor I. Lebamoff
Clerk of Circuit Court
State Police
Fort Wayne District

CAV/md

MADE A MATTER OF RECORD
DATE 7/15/75 CHARLES W. WESTERMAN, CITY CLERK

NOTICE OF OFFICIAL ACTION
OF
INDIANA STATE HIGHWAY COMMISSION

WHEREAS, under and by virtue of the Statutes of the State of Indiana relative to traffic regulation, the Indiana State Highway Commission has the authority and the duty to adopt and promulgate regulations in the interest of the safety and convenience of the traveling public using the highways, including streets in cities and towns, under the control of said Commission, be it known that the following traffic regulation is hereby adopted:

Parking shall be restricted on US 30 in the City of Fort Wayne, Allen County, as follows:

"NO PARKING ANY TIME" on the west side of US 30 from Lake Avenue to a point 500 feet north of Lake Avenue, a distance of approximately 500 feet.

"NO PARKING ANY TIME" on the north side of US 30 from Newaygo Avenue to a point 500 feet east of Newaygo Avenue, a distance of approximately 500 feet.

"NO PARKING ANY TIME" on the south side of US 30 from Executive Boulevard to a point 500 feet west of Executive Boulevard, a distance of approximately 500 feet.

"NO PARKING ANY TIME" on both sides of US 30 from SR 1 to US 27, a distance of approximately 4000 feet.

NOTE: This action amends and/or supersedes previous official action at the above named location (s).

ADOPTED THIS 10th DAY OF July 1975

Approved: Clinton A. Unableness Indiana State Highway Commission
Chief, Division of Traffic

Approved: Robert L. Edm
Chief of Highway Operations

BY: Raymond H. Brown
Executive Director

Approved: Glenn Hallock
Chief Highway Engineer

ATTEST:

J. M. Sullivan
Secretary to the Commission

BILL NO. G-75-06-27 (As Amended)

GENERAL ORDINANCE NO. G-21-75

AN ORDINANCE Authorizing The Establishment Of A Trust
For The Purpose Of Administering Monies To Be
Received From The Lease Of The City Of Fort Wayne
Light And Power Utility To The Indiana & Michigan
Electric Company And Providing For The Use
Of Such Monies

WHEREAS, nearly every city in the country receives substantially all of its financial support from taxes and other sources that are made available on an annual basis; and

WHEREAS, it is impossible for the cities to estimate accurately the amount of money which will become available at any time beyond the immediate future; and

WHEREAS, the exigencies of budgeting are such that many cities are required to devote a larger proportion of their revenues to current operating expenses than is desirable; and

WHEREAS, a result of the aforesaid condition is that it is difficult for cities to engage in realistic long term planning to assure fulfillment of their needs for capital improvements; and

WHEREAS, the City of Fort Wayne finds itself in a unique position among cities in that it is assured it will have available every year for 35 years large sums of money from the lease of the City of Fort Wayne Light and Power Utility to Indiana & Michigan Electric Company; and

WHEREAS, the revenues from said lease will represent the revenues from said Light and Power Utility during the duration of the lease; and

WHEREAS, the occasion may arise, upon default in its obligations under said lease by Indiana & Michigan Electric Company, or upon termination of the lease, that the City of Fort Wayne may desire to reclaim said Light and Power Utility, in which case it would be necessary for the City to reimburse Indiana & Michigan Electric Company for extensions and additions to said Utility, as provided in said Lease; and

WHEREAS, such reimbursements could be beyond the means of the City at the time they were required to be made, which would render it impossible for the City to reclaim said Utility; and

WHEREAS, it is desirable that the City of Fort Wayne establish a trust account, which is in effect a depreciation account, in the amount of \$270,000.00 annually which will enable the City to reclaim said Light and Power Utility by reimbursing Indiana & Michigan for additions and extensions upon default of its obligations under said lease by Indiana & Michigan Electric Company or upon termination of said lease; and

WHEREAS, in the event said Lease should run for its entire 35-year term, said trust account properly invested would produce a sum of approximately \$30,000,000 which, if left untouched in investments yielding a six (6) per cent return, would provide the City of Fort Wayne with an annual income of \$1,800,000 (equal to more than the final annual income from said Lease) in perpetuity; and

WHEREAS, it will be necessary to pay the general and administrative costs of said Lease, including the cost of pensions of retired employees of said Utility, which general and administrative costs will represent the operating expenses of said Utility; and

WHEREAS, there will be surplus funds left over; and

WHEREAS, it will be beneficial to the City that said surplus funds be used for capital improvements, which otherwise could be financed only by increasing the tax burden upon the citizens of the City; and

WHEREAS, the Board of Public Works presently administers the City's Cumulative Capital Improvement Fund; and

WHEREAS, such annual lease surplus in the Fort Wayne Light and Power Utility lease revenue account should be transferred to said Cumulative Capital Improvement Fund for purposes which will promote the cultural, recreational, public, civic or economic well being of the community in accordance with duly enacted ordinances passed by the Common Council of the City of Fort Wayne and approved by the Mayor of the City of Fort Wayne; and

WHEREAS, The Common Council of the City of Fort Wayne has examined and hereby approves the terms of a certain trust agreement, (a copy of which is attached hereto and identified as Exhibit "A") having as its trustee a board of trustees, consisting of the President of the Common Council, the Chairman of the Finance Committee of said Council, the Chairman of the Public Utility Committee of said Council, the Chairman of the Board of Works Committee of said Council, the members of the Board of Public Works of the City, the City Controller, and the Mayor. The Mayor shall be Chairman of the Board of Trustees.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the proper officers of the City of Fort Wayne are hereby authorized and directed to execute the aforesaid trust agreement, and to carry out the terms and provisions thereof.

SECTION 2. That an amount equal to the annual revenue derived from the lease of the Fort Wayne Light and Power Utility to the Indiana and Michigan Electric Company after payment of general and administrative expenses of said Fort Wayne Light and Power Utility, including pension obligations, the cost of lease supervision and general operating expenses, and after payment of \$270,000 annually to the aforesaid trust account shall be transferred regularly to the City of Fort Wayne Cumulative Capital Improvement Fund to be used for capital purposes of a nature previously enumerated in the body of this Ordinance.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

Vivian G. Schmidt
Councilman

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage. Passed by the following vote:

Ayes: Seven

Burns, Hinga, Kraus, Nuckols, V. Schmidt, Stier, Talarico

Nays: Two

D. Schmidt, Moses

Date: 7-22-75

Charles W. Westerman
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-21-75 on the 22nd day of July, 1975.

ATTEST:

(SEAL)

Charles W. Westerman
City Clerk

James S. Stier
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana on the 23rd day of July, 1975, at the hour of 10:00 o'clock A.M., E.S.T.

Charles W. Westerman
City Clerk

Approved and signed by me this 23rd day of July, 1975, at the hour

of 11:00 o'clock A.M., E.S.T.

Ivan A. Lebamoff
Mayor

GENERAL ORDINANCE NO. G-21-75 - EXHIBIT "A" TRUST AGREEMENT

EXHIBIT "A"

TRUST AGREEMENT

1. Name. The trust hereby provided shall be known as "The City of Fort Wayne Community Trust."

2. Beneficiaries. This trust shall be administered for the general welfare and in the best interests of the citizens and residents of the City of Fort Wayne, Indiana. Although they are the beneficiaries hereof, the citizens and residents of the City of Fort Wayne, Indiana, do not acquire any personal or individual legal interest in, or any right to anticipate, alienate, assign, or otherwise encumber the income or principal of this trust, the trust being intended for the benefit of the citizens and residents as a whole City rather than for the benefit of any individuals. However, this provision does not impair the statutory liability of the trustees to the beneficiaries per Indiana Code 30-4-3-11, or the statutory remedies of the beneficiary against the trustee per Indiana Code 30-4-3-22.

3. Board of Trustees. The Board of Trustees of The City of Fort Wayne Community Trust shall consist of the duly elected or appointed persons holding the following public offices at any given time:

- 1) President of the Common Council of the City of Fort Wayne, Indiana
- 2) Chairperson of the Finance Committee of the Common Council of the City of Fort Wayne, Indiana;
- 3) Chairperson of the Public Utilities Committee of the Common Council of the City of Fort Wayne, Indiana;
- 4) Chairperson of the Board of Works Committee of the Common Council of the City of Fort Wayne, Indiana;
- 5) Members of the Board of Works of the City of Fort Wayne, Indiana;

- 6) Controller of the City of Fort Wayne, Indiana; and
- 7) Mayor of the City of Fort Wayne, Indiana.

The Chairperson of the Board of Trustees shall be the Mayor of the City of Fort Wayne, Indiana. The Mayor shall exercise a vote only in the event of a tie vote of the other members of the Board of Trustees.

All members of the Board of Trustees shall serve without compensation in other than salary and benefits to which they are legally entitled as holders of the respective public offices.

4. Responsibilities of Trustees. To accomplish the purposes of this trust, the Board of Trustees shall:

- 1) Fulfill all of its duties in the administration of this trust, according to the provisions set forth herein;
- 2) Consult with, and where necessary employ, the best qualified and most able investment specialists from the Fort Wayne banking and investment communities for guidance in the investment of the corpus of this trust; and
- 3) Prepare and publish, on a semi-annual basis, a full report and accounting of this trust, indicating all income, distributions, and investments thereof. This report shall be a matter of public record.

5. Investment of Trust Funds and Authority of Board of Trustees. The Trustee shall have the power with regard to all property in the Trust and all income therefrom from time to time or at any time:

- a) To invest and reinvest the same in such tangible and intangible property as may be from time to time authorized for investments by an Indiana municipality.
- b) To sell, exchange, convey, transfer, mortgage, pledge, borrow, lease, or otherwise dispose of any tangible or intangible property held by it, without the necessity of approval of any court therefor or notice to any person. No person dealing with the Board of Trustees shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety or any such sale or other disposition.
- c) To vote, either in person or by proxy, any share of stock held as part of corpus of the trust; to exercise any and all rights or options pertaining thereto and to enter into agreements and consent to or oppose the reorganization, consolidation, merger, readjustment of financial structure

or sale of assets of any corporation or organization of the securities of which may be held in the corpus of the trust.

d) To collect the principal and income of such property as the same shall become due and payable and to give binding receipt therefor;

e) To take such action, whether by legal proceedings, compromise, abandonment or otherwise, as the Board of Trustees, in its discretion, shall deem to be in the best interests of the Trust.

f) To retain in, or convert to, cash or readily marketable securities without liability for interest or any other return thereon except as shall be actually realized. To lend money to the City of Fort Wayne at a reasonable rate of interest.

6. In all other respects except as herein specifically provided this Trust Agreement shall be governed by the trust laws of the State of Indiana.

7. Income of the Trust. The income of the trust to be administered by the Board of Trustees, shall be the sum of \$270,000 annually segregated into the trust account from the annual revenue derived from the lease of the Fort Wayne Light and Power Utility to the Indiana & Michigan Electric Company pursuant to General Ordinance and No. G-18-74.

8. Purposes of the Trust. The Board of Trustees shall in each calendar year distribute the income of the trust in such manner as to:

a) Distribute \$270,000.00 into the corpus of the trust, in accordance with the provisions of Section 9 below; and

b) Pay the reasonable and necessary expenses incurred by the Board of Trustees in administering this trust.

9. Corpus of the Trust. The corpus of the trust shall be the monies distributed according to Section 8(a) of this Trust Agreement, plus the income derived from the investment of the corpus funds. In anticipation of the aforementioned lease continuing in full force and effect for its entire 35-year term, it is a purpose of this trust for the corpus to be secure from invasion and distribution by the Board of Trustees while said lease continues in force. In the event that Indiana & Michigan Electric Company defaults on the lease or the lease is otherwise terminated, the Board of Trustees shall permit the corpus to be utilized by the City of Fort Wayne to reclaim the leased facility, pursuant to a duly enacted ordinance of the Common Council of the City of Fort Wayne. In all other circumstances, the corpus shall remain secure from invasion and distribution by the Board of Trustees, with the following exception: that this spendthrift provision may be broken and rendered null and void by a duly passed ordinance of the Common Council of the City of Fort Wayne, Indiana, following full public debate on the question of invading the corpus, including

examination of alternatives by the Board of Trustees, its investment-advisers, the Mayor's Citizens Advisory Council or successor body, and an advisory referendum in which a majority of citizens of the City of Fort Wayne voting on this issue indicate their preference that this provision be so terminated. In the event that the aforementioned lease should run for its entire 35-year term, the corpus shall be made available to the City of Fort Wayne, Indiana, to be utilized in accordance with the directions of the Mayor and Common Council of the City of Fort Wayne in office at that time.

10. Severability. If any section of this trust agreement or part thereof is for any reason held invalid, such invalidity shall not affect the validity of the remaining portion or portions of this trust agreement, which shall remain in force and valid.

11. Payment of Expenses and Taxes. The Board of Trustees shall be reimbursed for any reasonable expenses, including reasonable accounting and reasonable counsel fees, incurred by it in the administration of the Trust. Such compensation and expenses may be paid by the City of Fort Wayne but until paid shall constitute a charge upon the corpus of the trust. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws, upon, or in respect of, the Trust or the income thereof shall be paid from income of the trust.

BILL NO. Z-75-03-15

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Wayne Zoning Map No. E-9 have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance DO PASS.

Eugene Kraus, Jr.
John Nuckols
Vivian G. Schmidt
Paul M. Burns
Donald J. Schmidt

Concurred in 7-22-75

Charles W. Westerman
City Clerk